Taft Law School

Electronic Classroom – Baby Bar Mini-series

05/21/19 6:00 ‑ 7:00 PM

>> INSTRUCTOR: Good evening, everybody. We'll be starting in approximately one minute.

>> INSTRUCTOR: Good evening, everybody. Welcome to tonight's baby bar mini series. Our primary focus will be on the subject matter of crim law. I want to point out that these sessions are recorded so for your convenience if you miss one or you want to go back and review, they're up on Taft's Web site. Just sign in on the student section, and then go to the baby bar mini series and everything's posted there for you.

I want to thank you for those that did write your essay questions. I got six this time which is a lot better. A good start. Obviously the more experience you get in regards to writing the exams helps you in regards to understanding how the issues come up and getting the timing down. Trust me, those four hours for the four essays are the fastest time you've ever spent four hours. It's very important to get your timing down.

It's your job to determine the subject matter. If you read the call of the question, you'll know it. The reason that's important for a couple reasons. One if you know the subject matter before you read the fact pattern you can write out your checklist. Reading it cold and not understanding is it a tort, contract, or crim law so your mind hasn't been processing it under that subject matter so that's important. The other thing, too, once you recognize the subject matter, anxiety. All of us get stressed taking exams but once you read the call okay I have an understanding where I'm at. The anxiety level comes down as well. Checklist is familiar to you. Anxiety level comes down. These are all important tools to use.

The other thing is when you read the call, what type of call of the question is it? So this particular exam says with what crimes if any, can Angela, Brian, and Carter reasonably charge and what defenses, if any, can any of them assert? Discuss. It told me a couple things. One we know we're in crim law. At this point that is where I would actually write on my scratch paper my checklist. Remember, with your checklist make it shorthand. You're not going to write out the full verbiage. Go back and use it and make sure you're not leaving out issues that could be addressed.

This call is what we call a general call. It says what crimes? So I'm looking for two or more crimes. If I just see one most likely I've made a mistake. You've got multiple crimes. Angela, Brian, and Carter. I have three parties. That's usually a problem. Why? If I have three, somebody's done something different otherwise why would they give me three versus why not two? Something has to be different amongst these three. It says reasonably be charged. What does that mean? Doesn't mean that the actual crime that you're seeing based on the facts is gonna be supported with all the facts and they're gonna be convicted. There might be an element faltering. You're going to bring it up. It is something that you would bring up. It says what defenses? Remember, what to defenses mean? First of all, it says defenses so you're looking for two or more; right? If you just see one, we didn't answer the call. And then of course defenses could mean counterarguments so keep that in mind. When you go through your checklist and the facts and you can't see a true defense, remember it could be an actual counterargument based upon the facts and what's being raised here. You don't wanna make something up that doesn't exist. In this exam, you'll find there is actual true defenses itself.

Now that I understand in regards to an idea of the call I'm ready to read the fact pattern. Always read it through once to get a good understanding what's going on. That's important because people don't understand you've been studying the law so I know what conspiracy is, I know what larceny is. But you're not familiar with these facts. It's the first time that you've seen this actual hypothetical. Read to get a general understanding what's going on. If not, I'm going to get one, two, three issues past you and it's gonna hurt you. Comes down to points. Remember, we're going to go in there striving high so if I falter I'm not out. I want to go for that 885 I can. I'm not out of the game. I don't want to go in with that lowball. I want to strive as high point values as I can. More practice you get understanding in regards how the issues come up in a fact pattern that's going to help you.

Go ahead and read the facts. Remember, we're going to pretend we read it one time through.

Angela, Brian, and Carter were at Angela's house drinking beer. There's the period. What first thing comes to mind. Thinking intoxication. Would this be is it voluntary or involuntary? It's always gonna be voluntary unless they tell you otherwise. They'll have to give it to me factually. Someone slipped you a micky or something like that. When you do see drinking beer with it raising the issue of intoxication, what else should come to mind? The issue that would answer the calls to the defenses is diminished capacity. So a lot of times when you see the defense of intoxication, you should be thinking of another defense of diminished capacity. Remember, with diminished capacity so ‑‑ sounds like oh, you're intoxicated. Those two GENERALLY have a relationship with each other.

Now it further states they wanted to order a pizza and have it delivered but they did not have enough money to pay for it.

Those are good facts. We want a pizza. But we're aware we don't have must be money to pay for it. That means they have knowledge, they know. If they order the pizza, they know they have no ability to pay for it so that means they can't be so intoxicated they're not fully aware of their actions. That's good facts to rebut. Also good facts to support the mens rea of the underlining crimes coming down based upon the facts because they have knowledge.

Carter suggested they order the pizza and grab it from the person without paying. So if he suggested that raises the issue of solicitation. Solicitation does come up. But it's railroad subtle. One word, suggested. Use your checklist so you can get as much point value even though solicitation emerges. I do need to bring it up to get credit for it. You don't want to ‑‑ he applied the rule. Solicitation but merger so he didn't address it. Point that out to the reader that it merges. So you till would wanna bring it up and write it and then let the examiners know. Same thing if you see facts that raise an issue of attempt as well as attempt show it fails then go to the underlining crime not just dismiss it in your mindset. Remember, the facts will dictate. If there's an element that has strong facts you know they want the issue. Nothing more frustrating than not doing well than ‑‑ knowing that it's a lesser included offense or a merger something like that applies so you dismissed it on your outline versus getting into the examination.

Now it says Brian told Angela to call the pizza parlor. She did so, and ordered a pizza knowing she could not pay for it.

What are these facts trying to get you to direct towards? Brian's telling the Angela order the pizza. I have no way of paying for it. It goes to conspiracy. This is a different type of conspiracy by what? Conduct. By her actions. So remember, an agreement to form a conspiracy can be shown by conduct. You don't are to see express language between the actual parties so the fact that she did so and ordered it by her conduct shows we've got an agreement; right?

It says Brian and Carter waited outside the house. Now, again, go back through the first paragraph I see intoxication, diminished capacity, solicitation. He suggested they grab without paying for it so I'm thinking larceny or robbery. Not sure yet. We have a conspiracy. I feel pretty confident in the first paragraph I understand what's transpiring, I'm seeing facts, sub issues within the issues that I'm seeing so I'm confident that I'm reading the fact pattern carefully and breaking it apart. If you look at that one paragraph there's a lot of meat in there, isn't there so, again, even though a question may look short or small, it can be loaded with particular issues so pay attention to that. Again, that's why we use our checklist.

Now it says when the delivery person arrived with the pizza, Carter pulled a gun out of his jacket pocket. When you see gun, what are you gonna argue? Now you may using force. That might lend itself to the issue of robbery. Break that apart. Brian had no idea Carter was carrying a gun. Period. Stop. What's that mean? What does that go to? This is where I want you to be thinking in regards to the facts and the relationship is why do we care Brian didn't know? That actually goes to supported argument that I shouldn't be responsible for the robbery because I had no idea you were carrying a 2001. Would that negate his responsibility based on the actions of Carter? That's a Pinkerton's argument as to whether it's a natural probable result of the conspiracy and foreseeable. That's why they gave you the facts.

(reading from handout) but did not hit anyone. Now, the fact that he fired it into the vehicle this is one part of the question I did not like. The person arrived, he pulls out a gun, fires it into the vehicle. Where's the person? Could we argue attempted murder? We don't know where the bullet went or anything like that. We could argue actual attempt there. What do we do with those actual facts?

It says Carter told Brian to grab the pizza and run. If I'm grabbing the pizza and running, what activity is that? Is that a larceny? Could I be charged with larceny? Sure. Could it be robbery? Based on the facts here should raise what? Do I have facts to go through the robbery? Sure. He shot the gun based on the force, fear, intimidation of shooting it at him. Could I charge larceny? Sure. I would bring up larceny. I would bring up robbery. As we all know, larceny is a lesser included offense of robbery. I can tell that to the reader. But this is a jury decision was it by force or fear? Told him in regards to go grab it Brian and run. So is it really by force, fear, intimidation?

Now, further basically states Brian was shocked by Carter's actions and. So he's shocked. So what does that mean? Maybe you don't pick it up yet and did not move. So again, remember, he had no idea that Carter had a gun. Then the fact that he shot it and then says go grab the pizza and he's shocked and basically not moving, what's that tell you? Maybe he's under duress; right in then it further states Carter turned the gun on Brian so just put yourself in that position. So I'm turning the gun at you and told Brian, again, to grab the pizza and run. So that an argument for duress? I had no other choice. Now there's an emanant threat. You did shoot a gun into the pizza carrier's van there and turned the gun on me can told me the grab the pizza and run. So is that an eminent threat on my life? Good argument that yes, it was.

Further states, Brian then grabbed the pizza and Brian and Carter fled the scene. Did they go beyond the act of perpetration? Absolutely.

Brian back door and all of them ate the pizza. There's the sleeper issue. They all ate pizza. What is that? Definitely for Angela, at least, receiving stolen property. I told you last week, that's the issue the bar examiners like to test that's a sleeper. It's worth good points but hard to see. They camouflage it enough you're not really thinking about it. Obviously don't make it fit if it doesn't fit. But the facts that we know they didn't pay for it and Angela's fully aware of it. Remember, receiving stolen property is subjective, not objective. The fact she's the one that ordered it and didn't have the money to pay for it. She knows it's stolen.

Angela, Brian, and Carter. Back to the call. What crimes (reading from handout) what defenses if any.

What's the problem with this exam right off the bat? The call. The call basically said Angela Brian and Carter. What that means is I'm gonna are to separate out three lawsuits. I can't lump them together. People did different activities. I have State versus Angela, State versus Brian, State versus Carter. Who goes first? Angela. She's first in my call. I'm stuck. And the reason we don't always necessarily like to talk about her first, what actions did she do? Did she shoot into the van? No, she didn't. Did she grab the pizza and run? No, she didn't. Kind of makes it I'm kind of writing backwards because I haven't proven up the crimes. You're going to know your conclusion and start lap‑topping your examination. Angela unfortunately will have to go first the call dictates.

Once you have the call, have a good understanding of the facts, know what lawsuit goes first, day care in chronological order based important party. What transpired first based upon the facts? That's the best way of writing an exam. If you never have a good understanding how to set it up, if the call's very specific follow the call. If they don't tell me which they don't in this exam what's the first thing Angela did? Called and ordered the pizza knowing she didn't have the money so talk about the conspiracy. So again, take it in chronological order. Most likely that is exactly how the examiners are looking for it. And that's how they set up their answer. You want to take it in chronological order. Now, we all know the first issue's Angela conspiracy. You need an agreement between two or more.

Basically wanting to order pizza and knowing they didn't have enough money and Carter makes the suggest is why don't we order it grab it and not pay for it and Brian told Angela to call is that equivalent to an agreement? I called.

Based upon her conduct, based on their with the knowledge they don't have the ability to pay for it, that is an agreement by her conduct. The two or more is easy. Brian, Carter, Angela. Unlawful act, well, they're going to commit larceny or robbery. They're going to grab the pizza without paying for it. The element here in regards to your conspiracy that's being tested is the agreement. That's why we'd spend more time than the other two elements.

Now, remember, once you find that a crime is ‑‑ meaning you're gonna be charged and it's pretty much you're gonna be charged or even if it was a gray area ‑‑ if you found no conspiracy and it was supported based on the facts, I'm going on to the next crime. In this case, I did find conspiracy so I'm gonna look for any applicable defenses. The first defense which we saw in the first sentence of this exam is intoxication. Remember, intoxication's complete defense to what type of crime? Specific intent. What type of crime is conspiracy? Specific intent. So it can ‑‑ if I find that she was so intoxicated ‑‑ if I can then of course it would negate the conspiracy because conspiracy, again, is a specific intent crime.

Well, with intoxication what do you need to show? You're so intoxicated can't form the mens rea; you don't know what you're doing. So you lack the mens rea. Based on these facts, even though they were drinking, they did realize they didn't have enough money to pay for a pizza. Knowing this, they hatched a plan to go and order it and get it delivered anyway and they're going to grab it without paying for it. Based on those facts, we know Angela does have the mens rea. So the intoxication would not negate the specific intent so it's an invalid defense.

Now, remember, it says defenses. So I always wanna look for two or more. Remember, I told you intoxication look for diminished capacity. Diminished capacity, again, is when your capacity's so diminished it negates the specific intent. In this case, again, is she so intoxicated that she's not fully aware what she's doing? She knew she had no money, knowing she had no money, based on Brian telling her make the phone call the pizza parlor she did knowing they're going to grab the pizza and run. Her capacity's not so diminished that she doesn't understand that they have the intent to steal the actual pizza. So diminished capacity would not be a valid defense.

If you go back and look at the facts, what else did Angela do? Eat the pizza. But based on Brian and Carter's conduct, we see an issue in regards to maybe attempted murder, robbery, larceny, stuff like that. How do I handle that here? Because we're dealing with Angela first. Huh. You're gonna have to address it here and it's under the theory of Pinkerton's rule. Remember, I told you conspiracy in the Pinkerton's rule's very testable. The bar examiners, baby bar examiners, love the issue because they know you guys don't understand it and you don't learn and it's worth a lot of points. Why wouldn't I? With Pinkerton's rule I want you to think of this. Those of you who wrote ‑‑ a couple of you did a nice job on it, but you have to make sure you argue it. Don't just say under Pinkerton's she's going to be responsible for any underlining crimes of Brian and Carter. What do you need to argue? Based upon the agreement, you need to show me it's a natural, probable result to the agreement and it's foreseeable. If we break apart our actual crimes like the attempt, attempted murder, Angela's gonna argue the agreement was to grab the pizza and run without paying for it. That was contemplated for before the actual parties. No one said they're gonna have guns or shoot at the delivery person or in their vehicle. She's gonna argue that's not in furtherance of the conspiracy, further about grabbing the pizza and running not foreseeable you're gonna shoot. However, what was the for? Grabbing the pizza without paying for it. So based on those facts, is it foreseeable that your coconspirators here will take steps or actions to get that pizza no matter what? Whether it's use a type of force ‑‑ fist gun or something; right? That could result in attempted murder charge. The answer would be yes.

So remember, the key thing is, is you don't always focus on what they actually did because a lot of times the examiners give you conduct like that would happen one out of a million. The probability of that's slim to none. You're looking at the overall activity as to attempted murder. If you try to commit robbery, is it foreseeable that an attempted murder charge can arise from it? Absolutely because you're using force. It's actually foreseeable that a murder could result from it. Again, by the use of the actual force. You want to argue. You need to argue both sides in this exam, you need to argue both sides. Because there's an argument for her saying this is not what we agreed to. This was not contemplated by us. And that's worth some points. Generally when you see Pinkerton's, it's very rare it's a slam dunk. You will argue both sides. And you want to do a good job. Now when I talk about let's, say the robbery, she was a co‑conspirator as discussed. It's in furtherance of the conspiracy because I said grab the pizza and run. So under Pinkerton's, she's gonna be responsible if they're charged with the underline act of robbery.

Same thing with larceny. Again, she was a coconspirator, she's gonna be held liable for anything foreseeable in furtherance thereof, and since their agreement was to grab the pizza without paying for it and run, larceny would be foreseeable, natural probable result, therefore she would be convicted for larceny under Pinkerton's. I can what I call steal from my previous discussion up above so that'll help me with time because I did a nice job arguing both sides up above and bootstrapping it in the other two Pinkerton's issues under robbery and larceny. Make sense? That's why it's imperative if you see repetition of issues. Do a nice job on the first one so I can steal from it. Because of time. Time's against us.

Now I look at the call in regards to Angela. Is there any other crime? Yeah, we can charge her with receiving stolen property. That's not being imputed onto her. Basically they brought the pizza back to her house and sat down and ate it. That's an issue in regards to receiving stolen property. Remember, as I pointed out to you, it has to be subjective. That means Angela had to know that it was actually stolen and based upon their agreement knowing we didn't have money knowing that Brian and Carter went outside to wait for the pizza and they were going to grab it and run, not pay for it, she had knowledge the property was stolen since the pizza did come back to her place, and therefore she would be charged with receiving stolen property.

In regards to Angela, anybody have any questions? You see the big‑ticket item was conspiracy with agreement, and your argument in regards to your Pinkerton's rule. She didn't do the other acts, did she? You'll have to prove them up under the other parties. Any questions in regards to the State versus Angela?

Do you see how we had to set it up in the way we did? Don't have a choice because of the call. Again, they do this to you on purpose. I didn't want to mess with you. The more you practice and get a good handle on you're not going to get flustered you're going to know what to do. If I let the exam take control, it's over. That'll hurt me and I don't want that.

All right. No questions. Let's go ahead to the second lawsuit. State versus Brian. What did Brian do? Well, we've got the conspiracy. Start with that first. Based on the facts he told her to call and order the pizza. If you did a good job under the first lawsuit, you can define, discuss, supra. What that means is you brought Brian into the conversation in your analysis under Angela to support that. So I can steal the whole thing. Now, I did prove what? Conspiracy. Define, discuss, supra. I told the reader to go read it under Angela. Do we have a defense? We just convicted him for conspiracy. Intoxication, as well as the diminished capacity. Again, if you did a good job, under Angela, what are we going to do? Steal from it. And as discuss fully aware have no money to pay for it. So intoxication's not going to be a valid defense and same thing with your diminished capacity.

Remember, I told you as well, that there's got to be something different between the parties. So the first charge we brought up with Angela was attempt. The facts told us Carter pulled out a gun and shot into the delivery person's vehicle. Brian didn't do it. How do I impute it onto him? Through Pinkerton's. Again, if you did a good argument under Angela, I wanna bootstrap and say as discussed, supra. What was contemplated for the parties to commit either larceny or robbery and not they're going to attempt to harm anybody by shooting a gun or little did I have knowledge that he had a gun and make your argument. Again, it's important when you see, again, redundancies of issues coming down multiple times that if I can, I'm going to take from another and make the argument.

That's important.

Now how about the issue in regards to robbery? So you can prove up robbery here or impute it onto Brian through Pinkerton's rule? Why would I do that? The only reason I would do that's because Carter's the one that actually shot into the delivery person's van. So that's why my basically infra robbery to be discussed under Carter and talk about how we're imputing it to Brian under Pinkerton's. Does Brian in this case have a different defense? Absolutely. He has duress. Now, in regards to solicitation, the solicitation I see is based on Carter suggesting up in the first paragraph so that's gonna be in my last lawsuit.

I don't see that Brian solicited Angela. Generally what you'll see suggested is a good word generally they like to use to show, okay, your enticing for your solicitation. Now, what's the issue with duress? Basically someone coerced you to do an unlawful act based upon an eminent threat. It has to be eminent threat to who? To you or a close person. So it can't be somebody I don't know, or maybe even a friend really is that really a close person? Most likely we're looking at a family member or something like that. Remember, it has to be eminent.

Based on these facts, Brian's going to argue based on the facts I'm not responsible for the robbery. I have a valid defense of duress because I didn't know Carter ‑‑ had no idea that Carter had a gun and when he pulled out the gun and shot it into the vehicle, I was shocked. Right? And then Carter turned the gun basically and pointed it at me, aimed at me, and told me the grab the pizza and run. So based on his argument, Brian's gonna to say yeah I was under the belief Carter's gonna shoot him. I have no choice at this point.

Again, what can the prosecution say? What can we counter? Well, if you're really that fearful if you think about it and you grab the pizza and run to Angela's house again, are you gonna stay there and eat the pizza with Carter? You want to take a step back. Is he really acting under an eminent threat? Or I grabbed it, went to her house, threat's over so now everything's okay. Doesn't work that way. Returning to the house doesn't say that he's still afraid of Carter in this case. He sat down. So it was a ‑‑ what's a good word? Monetary in regards to him being shocked because he wasn't expecting the gun. But did he really believe that Carter's going to shoot at him if he didn't go grab the pizza? This is your argument. And again, if that's the case and you feel you put yourself in that situation or if you had failed, he'd shot at me. Maybe he would because the gun is pointed at you. I don't have a problem with that. But look at the aftermath. What happened? You grabbed the pizza, went home, and ate it with Angela and Carter. So it's really duress going to be a valid defense to the robbery? My argument is no. Intoxication can be argued, and diminished capacity. The same discussion you had under Angela. So define, discuss, supra. Steal from it.

What about the larceny? Now, you could do this two ways again. Prove up the larceny here or impute it to him based upon Pinkerton's rule. Sometimes you'll find there's multiple ways to write an exam answer. What the key is that you understand which way you're going to write from it and don't vacillate from it. There are exams like this. I can write it five different ways. Pick a way and run with it. If you try to write it five different ways, you're in trouble. You'll never get done, you'll get confused, and confuse the reader. Sometimes they do that to you on purpose. Pick a way that works and go with it. Now you could, again, point out the larceny here. Could have brought up Pinkerton's rule. Define, discuss, supra because you did a good job under Angela, then your defenses supra back as well.

What's the difference? Go back and look to Angela. I had in regards to the conspiracy and I had a good argument in regards to Pinkerton's. What's the difference between Angela and Brian? I see here he's got the issue in regards to duress. So there is a difference between them. That leaves me with the last lawsuit against Carter. Any questions in regards to the State versus Brian? All right.

Last call. State versus Carter. Okay. Now you did ask in regards to solicitation. And that's the first issue I would bring up against Carter, solicitation. Again, suggest order generally is how they test and that raises the issue of solicitation. With solicitation you're inducing or enticing another to commit an unlawful act. You want to bring up the fact hey, I knew we had no money and I suggested they order the pizza and grab it without paying for it. My suggestion here, showing I'm trying to induce Angela and/or Brian to commit larceny or robbery?

That's your whole argument. Of course I would argue yes. Point out to the reader that solicitation's a lesser‑included offense of the underlining attempt robbery larceny so it would merge.

The other thing I want to point out which does come up on the multiple choice questions with solicitation is let's say Angela and Brian thought Carter was joking and thought it was funny. Would that change your conclusion as to whether or not there's a solicitation? It shouldn't. Even if the other party thinks it's a joke, we look to in this case Carter and see basically is Carter acting with the specific intent to induce someone to do unlawful act? So remember that. We're not looking at the other party. Even though they think it's a joke, you can still be responsible for the solicitation which, if you look at the premise behind it why? I want to punish a criminal mind. Your mindset. They don't like it.

I did find solicitation so what will I do? Argue any defenses. Which, again, the intoxication and the diminished capacity can be argued here. And do what? Define, discuss, supra. Now talk about the attempted murder. We haven't proven up the attempt. We imputed it onto Angela and Brian based upon Pinkerton's rule. With an attempt, remember, you need specific intent, substantial step, apparent ability, and go beyond ‑‑ actually, mere preparation and perpetration wouldn't equate to an attempt.

Now, I'm going to what you'd argue factual‑wise, and then I'll come back with the student question earlier as to attempt in a minute. Okay. Carter's act of pulling out a gun out of his jacket pocket and firing it into the delivery person's vehicle shows he has specific intent to commit some type of crime doesn't he? And taking the gun out of his pocket and firing he has the apparent ability to kill the delivery person. The prosecution's gonna argue, by firing, you hurting that person. That should be a substantial step towards murder. Carter's going to argue I only fired in order to what? I didn't wanna hurt anybody; I wanted to get the pizza. Basically my intent was to instill fear in order for me to grab the pizza and basically run. So I'll point out eventually that he's not responsible for the attempted murder.

Obviously we went through all the elements and gave our conclusion as to where does it fail in regards to his intent and of course argue are you both sides and give me your conclusion.

Student question in regards to attempted murder. They didn't see the attempted murder but the key thing is, is let's say you didn't see the attempted murder. Could you find an actual attempted robbery and then point out how the steps actually of the attempted robbery merged into the actual robbery? Why? The attempt you can tell is at issue based on the facts. I have to do an attempted something. The facts did tell you that he fired a gun into the delivery person's vehicle and he didn't hit anybody. That's the full sentence of facts. Okay. You cannot read a full sentence of facts on any exam and not use them. It goes to something.

So I'm sure the examiners would have taken attempted murder, attempted robbery, anything to support the position. Remember, you're focusing with an attempt ‑‑ murder, rape, robbery, whatever it is ‑‑ of the elements of attempt. Although you need to look through the apparent ability of the underlining issues such as in this case the murder; right? If you want to went through attempted murder or attempted robbery get the same credit. They wanted to see that you understood there's an attempt issue here. Everybody understand that? If I see the facts like I do here, and I have no clue what they're trying to tell me, that he fired the weapon into the delivery person's vehicle but did not hit anybody, go back and use your checklist. That's where I came up with attempted murder because I feel that's definitely going to support the issue in regards to robbery. Is he instilling fear? The one thing that's vague about this question, there's no facts to did the delivery person ‑‑ he arrived ‑‑ are you in the car, out of the car, where are you in another person's comment today was most people carry it in the back of the car in a heated bag. When he fired the gun he can make the assumption he wasn't anywhere near the pizza, but I don't think you have to go that far. What you do need to see is that these facts raise something.

If you can't tell, run it through that checklist so you find the issue to get the point value. That's a good issue. The exams for people that didn't pass this, that is one that's coming up. The ones that they publish answers, attempt was one. A lot of people would just say no to attempt, and that's fine too.

Now, in regards to Carter, remember we're charging him because he did the actual conduct. We went through the actual elements of attempt for Carter. We imputed or tried to impute it onto Angela and Brian through Pinkerton's. But in this case if you concluded Carter did not have specific intent to commit attempted murder we can't impute it to Angela or Brian. That's why it's important when you outline know what you're gonna say when you talked about Angela then Brian. You outlined and realized you're not charging Carter with it. Even though I'm gonna bring it up and argue Pinkerton's, point out foreseeable and all that stuff and point out if we do find Carter is charged with attempted murder it would be imputed onto them. That's why that made this exam hard because most people wanted to start off with Carter. He's the one that did the most activity. I get it. You can't. The call of the question. What students don't understand you have to follow the call. They won't mark you down for non‑issues but they will mark you down for not following the call of the question. That's what's frustrating.

Here we did talk about our robbery. Remember, with the robbery, trespatory taking and carrying away the force, fear, intimidation. Again, they fled with the pizza ‑‑ so there's a trespatory taking ‑‑ and went to Angela's house we got the carrying away. The pizza place it's pizza so personal property. Was it by force, fear, intimidation? They grabbed it, he shot the gun into the vehicle, so I'm instilling fear. Make your arguments. They ate it. That shows specific intent to permanently deprive. I'll come back to your question.

Of course, since you proved up the robbery, define, discuss, supra your defenses. Why is it not involuntary manslaughter or not voluntary? You mean intoxication? So actually, it's ‑‑ it looks like something changed on the answer you guys got sent. It's voluntary intoxication, not involuntary. As to manslaughter since there's no death, we wouldn't worry about voluntary/involuntary manslaughter. As to intoxication here, it's voluntary intoxication or you can just headnote intoxication. What's the difference? With voluntary intoxication, it negates specific intent. Involuntary intoxication negates general and specific intent. There is a difference so I could get off for a general intent crime. Student pointed it out. Looks like the answer that was sent out to you, not sure if it was added or there was a typo in there. Not sure what happened there.

The last cause of action against Carter is larceny. Now, remember, if you did an awesome job under robbery, we can steal a lot of it. Don't just say it's larceny without force, fear, intimidation. You have to give them a good rule. Point out as argued above, there was a trespatory taking and carrying away. Did they have the specific intent to permanently deprive emanated by the fact they ate the pizza, yes, and then get out. Point out, though, to the reader that you cannot charge the parties with both robbery and larceny. So either you do it under robbery or you do it under larceny. Let them know it's basically a lesser‑included offense.

Is there any questions in regards to the last lawsuit State versus Carter? Okay.

Couple things. I want to make sure that you are outlining your examination because this is gonna pinpoint where your point value is. A couple students said today they just put a cursory issue sheet together like solicitation, attempt, what have you. If you don't start focusing on the sub issues the elements I'm going to get you because you're gonna miss the inners and those are worth some points. So I do want you to break it apart. Be cryptic about it it's fine. But pull out the facts to support it. That's important.

I did discuss in regards to nonissues. Remember, nonissues aren't gonna hurt you, just kill your time. If your timing's off, that's gonna hurt you. Also, too, in regards to once you find a crime I want to make sure you look for any and all applicable defensors. Notice in this exam I did applicable defenses after each time I found a party either guilty or remember if it's a gray area talk about the actual defenses. That means not only answering the call, they understand which ones work for what crime. It might work multiple times. That's fine; supra it back. One person did write an accessory. Not at issue. My agreement's too strong. The general rule is when you do see can I argue conspiracy versus an accessory, if you find an actual agreement then what's that mean? I'm going with conspiracy. Remember, conspiracy is an independent crime all by itself. An accessory, all you are is an accessory but you're gonna be charged with the underlining crimes so you only get one charge versus conspiracy in the underlining crime, that's two charges.

The prosecution's more likely gonna charge you with conspiracy if I can find the actual agreement itself. Any questions on that?

I want to point out at this point what should we be doing? Next week we're going over the most current baby bar which is October's. Those will be sent out to you. Start working your multi states daily. Up the ante. Start doing 20, 25 daily if you can. I want you to start working on your issue spotting with your essay questions and I want you on the weekends writing at least two of them so we can get our timing down. Up the ante later. Promising you this: If you done, you will run out of time. You won't have your timing down and you'll be frustrated and you can't do it. You've got to put in the time, make the effort, and do it. That's very important. So look for the e‑mail I believe it'll go out tomorrow in regards to the most current baby bar essays. Please take a look at them. If you have time to write them, even better. Again, this gives you an idea how they're currently testing, and there's couple tricks to this. They have some good issues there that are very to see, and let's see if you can see them based on your knowledge and stuff. Use your checklist when you issue spot the exams. That's important.

Anybody are any questions for me? Remember, if any does come up shoot me an e‑mail at jolly@taftu.edu be more than happy to help you in any way I can. Please start being earnest and doing those multi states and working on your issue spotting ‑‑ that's very important. Again, if anything comes up, I have a question is it a multi states or essay, feel free to ask me. I'll be more than happy to help in any way I can. You guys have been great and I guess I'll see you guys next week, then. Good night.

[END TIME: 6:46 PM]